

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS6

CIVIL MINUTES - GENERAL

Case No.	2:24-cv-00382-RGK-AS	Date	February 8, 2024
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Title	Angela Talimao v. Avenir Senior Living, LLC
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Present: The Honorable	R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE
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Joseph Remigio (not present)

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

Not Present

Not Present

Proceedings: (IN CHAMBERS) Order Remanding Action to State Court

On December 12, 2023, Angela Talimao ("Plaintiff") filed a Complaint against Avenir Senior Living, LLC ("Defendant") in Los Angeles County Superior Court alleging whistleblower retaliation, wrongful termination, and violations of state wage and hour laws. Defendant timely removed the action to this Court on the basis of diversity jurisdiction. (ECF No. 1.) After reviewing the notice of removal, the Court issued an Order to Show Cause as to whether the amount in controversy requirement was met. (ECF No. 11.) Defendant has filed its Response. (ECF No. 12.)

The Court has considered the Response and finds that Defendant has failed to satisfy its burden of showing that the amount in controversy requirement was met. In the Response, Defendant argues that the Court must add to \$59,780, the amount previously considered as proper amount in controversy, the additional amounts of \$3,500 in attorneys' fees and unspecified amounts for emotional distress and punitive damages. Defendant asserts that the amount in controversy could "easily exceed \$75,000" without stating what is actually the amount in controversy. The Court is not persuaded.

While attorneys' fees, emotional distress damages, and punitive damages are appropriate to include in calculating the amount in controversy, Defendant's support for them here is speculative at best. Defendant offers no evidence to suggest that Plaintiff would be entitled to such damages or what these amounts would be. A conclusory statement that the amount in controversy requirement is met is not enough. The Court will not speculate as to how much Plaintiff could recover for emotional distress and punitive damages. Therefore, the Court declines to include them in the amount in controversy.

Excluding emotional distress and punitive damages, even if the \$3,500 in attorneys' fees is added, Plaintiff's claims total only \$63,285, which is short of the amount in controversy required for diversity jurisdiction. Accordingly, the Court **REMANDS** this action to state court for all further proceedings.

IT IS SO ORDERED.**cc: Los Angeles Superior Court, 23STCV30153**

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Initials of Preparer

JRE/dc
